

Item Title: Request from the Town of Morrisville for an Encroachment within a Wake County Watershed Improvement Easement at Crabtree Creek Flood Control Structure Site# 23 Lake Crabtree

Specific Action Requested:
That the Board of Commissioners:

- 1. Approves the Town of Morrisville request for an encroachment within a Wake County Watershed Improvement Easement at Crabtree Creek Flood Control Structure Site# 23 Lake Crabtree; and**
- 2. Approves the Encroachment and Indemnity Agreement with the Town of Morrisville for Construction of Crabtree Creek Nature Park; and**
- 3. Authorizes the Chairman to execute said Encroachment and Indemnity Agreement for Construction of Crabtree Creek Nature Park (along with any other supporting documentation), subject to the terms and conditions acceptable to the County Attorney.**

Item Summary:

Purpose: The Board of Commissioners must approve real estate agreements with Municipalities.

Background: Wake County owns and is responsible for maintaining ten earthen berm flood control structures along the tributaries of Crabtree Creek in order to reduce flooding along the creek. The Town of Morrisville is proposing to construct the Crabtree Creek Nature Park on two properties they currently own off Keybridge Drive in Morrisville. The properties being developed are adjacent to Crabtree Creek Flood Control Structure Site#23 Lake Crabtree. The 33.75 Acre property owned by Morrisville is subject to an existing Wake County Watershed Improvement Easement. The Town of Morrisville is requesting that Wake County agree to an encroachment within the County Watershed Improvement Easement to allow the site to be further developed as a Nature Park.

Board Goal: This action supports routine County operations.

Fiscal Impact: There is no fiscal impact to the County associated with entering into the Encroachment and Indemnity Agreement with the Town of Morrisville for Construction of Crabtree Creek Nature Park.

Additional Information:

Wake County owns and maintains numerous parcels as part of the Crabtree Creek Watershed Project (CCWP). The CCWP is comprised of 10 earthen berm flood

impoundment structures along the tributaries of Crabtree Creek known as Structures 1, 2, 3, 5A, 11A, 13, 18, 20A, 22B, and 23. Wake County is responsible for maintaining these structures to reduce flooding along Crabtree Creek. This arrangement was formalized in Operation & Maintenance Agreements between the County and the U.S. Department of Agriculture's (USDA) Natural Resource Conservation Service (NRCS) in 1975 and again in 1985. The O&M Agreements require the County to obtain approval from NRCS of all plans or alterations or improvements to the flood control structures, to prohibit the installation of any structure or facility that will interfere with the operation and maintenance of the structure, and to notify USDA of any third-party agreement for the operation or maintenance of any part of the project.

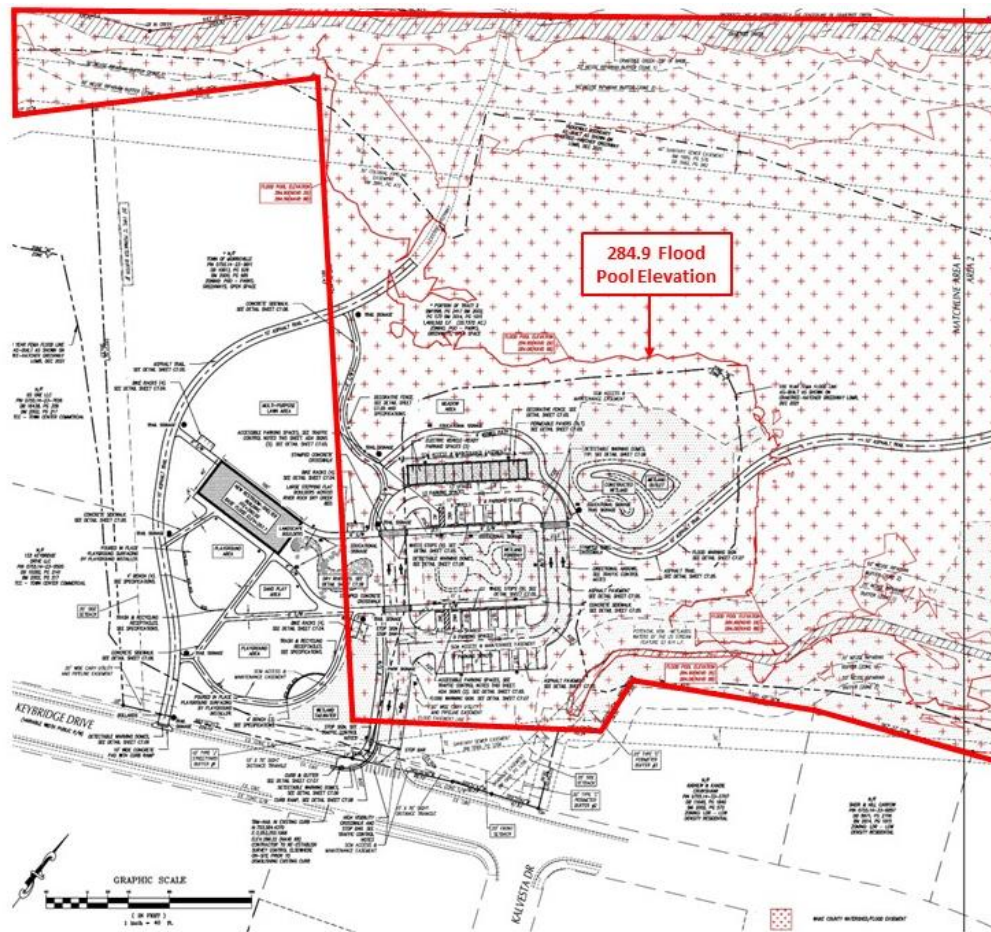
The properties being developed are adjacent to Crabtree Creek Flood Control Structure Site#23 along Lake Crabtree. The aerial photograph below shows the surrounding area and property. The 33.75 Acre property owned by Morrisville is subject to an existing Wake County Watershed Improvement Easement recorded in Deed Book 2768, Page 292 at the Wake County Registry (see attached easement). The smaller tract is 3.15 acres and not encumber by the County easement.



The County Crabtree Creek Watershed Project Policy was implemented in May 2021 by the County Manager. In accordance with the Watershed policy, staff received the attached encroachment request letter in January 2023 from Morrisville's design consultant CLH Design. After project coordination meetings between the County, NRCS and CLH Design, CLH provided the attached response letter in June 2023. Subsequently Wake County and NRCS reviewed the updated Engineered drawings, updated Engineer's-no net loss certification, and CLH responses, at which point NRCS provided the attached approval to the County in June 2023.

The current Crabtree Creek Nature Park is an existing public Park owned by the Town

of Morrisville, currently consisting of a parking lot, an athletic field, and a greenway connection. The athletic field, constructed by a private developer in the 1990's, placed fill within the lake Crabtree flood pool without approval of Wake County and NRCS. The Nature Park Renovation Project proposes to remediate (remove) the fill that was placed during the construction of the athletic field. The Town of Morrisville is proposing to further develop the park and add new active and passive recreational amenities by constructing a new parking lot, adding a pavilion with restrooms, a fully inclusive ADA playground, walking trails and an elevated boardwalk. The map shown below displays the location of the proposed Nature Park encroachment in red, and the existing County Watershed Improvement Easement is labeled and shown as a solid red line.



The County Easement delineates the flood pool elevation of 284.9. More detailed plans showing the proposed Nature Park project and encroachment are attached (Engineering Drawings). Morrisville's design consultant has provided the attached Engineer's Certification-no net loss. This certification states that the proposed Crabtree Creek Nature Park will mitigate a portion of the 1990's construction activity through a net removal of fill from the flood pool and will not increase the design flood pool elevation from the current conditions.

The Wake County Attorney's office drafted the attached Encroachment and Indemnity Agreement for Construction of Crabtree Creek Nature Park. The Agreement authorizes the Town of Morrisville to construct the proposed Nature Park within the County

Watershed Easement subject to certain conditions being met.

NRCS along with County staff from Facilities Design & Construction, General Services Administration, and County Attorney's Office have reviewed the proposed plans for the Crabtree Creek Nature Park and have concluded that the proposed Nature Park and encroachment will have no negative effect on the current flood pool storage volume and functioning of the flood control structure. The Town of Morrisville approved the Encroachment and Indemnity Agreement at their Town Council meeting on August 8th, 2023. Any costs associated with the Encroachment Agreement, including recording fees will be paid by the Town.

Attachments:

1. Wake County Watershed Improvement Easement DB 2768 PG 292
2. Encroachment Request Letter January 2023
3. CLH Response letter June 2023
4. NRCS Approval June 2023
5. Engineering Drawings
6. Engineer's Certification-no net loss
7. Encroachment and Indemnity Agreement for Construction of Crabtree Creek Nature Park